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10/535,648	12/27/2005	Franz-Ulrich Brockhoff	BU-13PCT	9632	
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NEW YORK, NY 10017			ART UNIT	PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary 10/535,648		Application No.	Applicant(s)				
Joseph D. Pape Jose	Office Antique O	10/535,648	BROCKHOFF, FRANZ-ULRICH				
The MALINIO DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER. FROM THE MAILING DATE OF THIS COMMUNICATION. Substitution of the interring the available industries provided and apply and well expire SIX (8) MONTHS from the maining date of this communication of the provided and apply and well expire SIX (8) MONTHS from the maining date of this communication of the provided and apply and well expire SIX (8) MONTHS from the maining date of this communication of the provided and apply and well expire SIX (8) MONTHS from the maining date of this communication. Period well expire SIX (8) MONTHS from the maining date of this communication. Period well expire SIX (8) MONTHS from the maining date of this communication. Period well expire SIX (8) MONTHS from the maining date of this communication. Period well expire SIX (8) MONTHS from the maining date of this communication. Period well expire SIX (8) MONTHS from the maining date of this communication. Period well expire SIX (8) MONTHS from the maining date of this communication. Period well expire SIX (8) MONTHS from the maining date of this communication. Period well expire SIX (8) MONTHS from the maining date of this communication. Period well expired six (8) MONTHS from the maining date of this communication. Period well expired six (8) MONTHS from the maining date of this communication. Period well expired six (8) MONTHS from the maining date of this communication. Period well expired six (8) MONTHS from the maining date of this communication. Period well expired six (8) MONTHS from the maining date of this communication. Period well expired six (8) MONTHS from the maining date of this communication. Period well expired six (8) MONTHS from the maining date of this communication. Period six (8) MONTHS from the maining date of this communication. Period six (8) MONTHS from the maining date of this communic	Oπice Action Summary	Examiner	Art Unit				
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2a) ☐ This action is FINAL. 2b) ☑ This action is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☑ Claim(s)	Status						
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Application/Control Number: 10/535,648 Page 2

Art Unit: 3612

DETAILED ACTION

Specification

- 1. The abstract of the disclosure is objected to because it contains legal phraseology such as "means" and "said" which should be avoided. Correction is required. See MPEP § 608.01(b).
- 2. The specification lacks proper headings.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, "motor vehicle" is inferentially recited. On line 4, "area" has no clear antecedent basis. On lines 6-7, the phrase "or, ...fins" is improper claim content, narrative type language. The phrase "essentially rigid" is vague and indefinite.

In claim 7, line 5, "sections" has no clear antecedent basis. Also, on the last three lines, it is not exactly clear to what the term "it" and "its" refers.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then

narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 9 recites the broad recitation horizontal region, and the claim also recites trunk lid which is the narrower statement of the range/limitation.

In claim 10, the use of "it" is unclear.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4, 10 and 11, as understood and as broadly as recited are rejected under 35 U.S.C. 102(e) as being anticipated by Heselhaus.

Heselhaus discloses the claimed invention including roof 1, movable portion 1, tips 5b and frame parts 5.

Re claim 9, note the header which is stored horizontally.

Claim Rejections - 35 USC § 103

- 7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 8. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heselhaus.

Heselhaus discloses the claimed invention except for the remote control of the frame part 5.

Examiner takes official notice that such remote control operation of a storage compartment lid of a convertible roof is notoriously well known.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the frame 5 of Heselhaus to include remote control as an obvious matter of design choice to automate an otherwise manual task.

Allowable Subject Matter

9. Claims 7 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

- 10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references generally relate to the disclosed invention.
- Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (571)272-6664. The examiner can normally be reached on Tuesday-Friday 6:30 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571)-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joseph^UD. Pape ^{*} Primary Examiner Art Unit 3612

Jdp

3/12/07